



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/576,499 05/23/00 WILLIAMS

R 2429/4

EXAMINER

QM22/0521

MICHAEL H BANIAK  
BANIAK NICHOLAS PINE & GANNON  
1603 ORRINGTON AVENUE SUITE 2000  
EVANSTON IL 60201

ARNOLD III T

ART UNIT

PAPER NUMBER

3728

DATE MAILED:

05/21/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

BEST AVAILABLE COPY

# Office Action Summary

Application No.

09/576,499

Applicant(s)

Williams

Examiner

Tr y Arn Id

Art Unit

3728

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on May 23, 2000
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirements.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 3 20) ☐ Other: \_\_\_\_\_

Art Unit:

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11-14, 16 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Sullivan et al. Regarding claim 11, Sullivan teaches a packaging component comprising a base member 10 with a central part, opposed sides, with portions foldable out to form arms, a member 18 engagable with the arms to hold them in a folded condition, whereby an article to be packaged is stabilized. Regarding claim 12, item 19 is a portion foldable out of the plane of the base member which forms legs. The limitations of claims 13 and 14 are fully met by Sullivan; see Figs 3 and 4. Regarding claim 16, Sullivan teaches side and end leg portions with lapping portions at each corner which fold over and underlie adjacent portions. See Fig 3. The limitations of claim 19 are fully met by Sullivan; see Figs 1.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan in view of Wood, Cadillac et al and Official Notice. Sullivan teaches all the limitations of claims 1 and 2 except a stand-off element. (Note that the intended use phrase in the preambles “for a vehicular radiator” has been given no weight in accordance with Kropa v. Robie. Sullivan’s packaging system could clearly be used to package a vehicular radiator.) Wood teaches stand-off elements 17 in a packaging system. Cadillac teaches stand-off elements 11,12 in a packaging system. Official Notice is also taken that stand-off elements or spacers are old, obvious and well known structures in the packaging arts. It would have been obvious in view of either Wood, Cadillac or Official Notice to one of ordinary skill in the art at the time the invention was made to provide stand-off elements in the packaging structure of Sullivan for the purpose of better retaining the item packaged. Sullivan teaches all the limitations of claim 3 except the tray member being made of Kraft paper per se. It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the tray member of Sullivan out of Kraft paper for any of its desirable qualities; Kraft paper appears to be the full functional equivalent of the cardboard specified by Sullivan. The limitations of claims 4, 6 and 9 appear to be fully met by Sullivan. Sullivan teaches all the limitations of claims 5 and 7 except a diagonal fold line forming a gusset, and pre-cut locking tabs and pre-cut locking receptacles, respectively. Official Notice is taken that diagonal fold lines and gussets, and pre-cut tabs and receptacles, are

Art Unit:


old, obvious and well known formations in the art of packaging, and would have been obvious modifications to Sullivan for any number of reasons, such as easier assembly. Sullivan's structure appears to be the full functional equivalent of that claimed. Sullivan teaches all the limitations of claim 8 except the legs being folded towards the back rather than the front of the tray member. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sullivan's tray member so that the legs folded towards the back for the purpose of better supporting an item which needed to be maintained in a "this side up" orientation. Sullivan teaches all the limitations of claim 10 except a plurality of fold lines between the cuts. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate fold lines in the arms of Sullivan in order to make the folding process more even and precise. Fold lines are old and well known in the packaging arts. Sullivan teaches all the limitations of claim 24 except a stand-off element and fold lines on the arms. See arguments pertaining to claims 1 and 10 above, respectively.

Claims 15, 17, 18, 20-23 and 25-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan et al. Claim 15 is rejected in the same manner as claim 5 above. Claim 17 is rejected in the same manner as claim 7 above. Claim 18 is rejected in the same manner as claim 8 above. Claim 20 is rejected in the same manner as claim 10 above. Claim 21 is rejected in the same manner as claim 3 above. Claim 22 is clearly met by Sullivan; see straps 18. Sullivan teaches all the limitations of claim 23 except fold lines on the arms. It would have been obvious to one of ordinary skill in the art at the time the invention was made to

Art Unit:

incorporate fold lines in the arms of Sullivan in order to make the folding process more even and precise, as discussed regarding claim 10 above. The limitations of claims 25, 28 and 30 appear to be met by Sullivan. Claim 26 is rejected in the same manner as claim 7 above. Claim 27 is rejected in the same manner as claim 8 above. Claim 29 is rejected in the same manner as claim 3 above. Regarding claim 30, see argument regarding claims 1 and 2 above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Troy Arnold whose telephone number is (703) 305-0621.

  
Paul T. Sewell  
Supervisory Patent Examiner  
Group 3700

tga

May 18, 2001